

### **Remarks**

The Final Office Action of June 3, 2009, has been carefully reviewed and these remarks are responsive thereto. Upon entry of the present paper, claims 1-23, 39-60 are pending. The Office Action's rejections are as follows:

- Claims 1-6, 12-14, 39, 41-50, 52-56, and 58-60 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chapman et al. (US 7,324,515), hereinafter Chapman.
- Claims 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view of Nikolich et al. (US 6,853,680), hereinafter Nikolich, and further in view of Ma et al. (US 2005/0177861), hereinafter Ma.
- Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view of Chapman et al. (US 7,349,430), hereinafter Chapman B.
- Claims 7-11 and 18-23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view of Abramson et al. (US 2003/0120819), hereinafter Abramson.
- Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view of BUNN et al. (US 2008/0010300), hereinafter BUNN.
- Claim 51 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view Rakib (US 2002/0019984), hereinafter Rakib.
- Claim 57 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman and further in view Rakib (US 2002/0019984), hereinafter Rakib.

#### ***Independent Claim 1 and Dependent Claims 2-17***

Amended claim 1 recites the following feature:

a gateway configured to output signals on at least two types of data tunnels for transfer over a cable network to Customer Premises Equipment (CPE), each data tunnel characterized as a one-way data stream of out-of-band (OOB) messaging signals, where each type of data tunnel is associated with a different type of OOB messaging signal such that different types of data tunnels transfer different types of OOB messages.

The Office Action alleges that Chapman teaches this element of claim 1 and refers to Figure 1, column 6 (lines 52-55), and column 3 (lines 1-4) to make this allegation. Chapman discloses a method for transmitting data over a cable network wherein a tunnel is established in the cable network and data packets are sent from a cable modem termination system (CMTS) through the tunnel to clients. The tunnels to the customer premises equipment of Chapman are generic tunnels; Chapman does not disclose “different types of data tunnels transfer different types of OOB messages” to the customer premises equipment, as claimed. While “there can be different addressing schemes used for sending different OOB messages over different Ethernet tunnels,” Chapman only discloses “different lookup tables 106-112” to “determine where and how to forward OOB packets.” (See Chapman, column 6, ll. 51-56.) These lookup tables contain different destination IP and Ethernet address schemes but do not contain schemes that allow for “each type of data tunnel is associated with a different type of OOB messaging signal such that different types of data tunnels transfer different types of OOB message,” as claimed.

In column 6, lines 7-17, Chapman states that “proxy 97 can be used for receiving OOB messaging from multiple servers 76-82. Each server 76-82 may be used for a different OOB messaging service. For example, server 76 may be used for an electronic programming guide (EPG) service and server 80 may be used for an emergency notification service.” Even though the *servers* in Chapman may send different OOB messages to a *proxy at the headend*, this is still not equivalent to a “a gateway configured to output signals on at least two types of data tunnels for transfer over a cable network to Customer Premises Equipment (CPE), each data tunnel characterized as a one-way data stream of out-of-band (OOB) messaging signals, where each type of data tunnel is associated with a different type of OOB messaging signal such that different types of data tunnels transfer different types of OOB messages,” as claimed (emphasis added). The servers 76-82 of Chapman and proxy 97 are both located at the headend and, therefore, the communications lines established between them do not transfer data to customer premises equipment, as claimed.

None of the cited references (e.g. Chapman, Abramson, Ma, Nikolich, and ChapmanB, etc) overcome these deficiencies, and for at least these reasons, Applicant submits that independent claim 1 distinguishes over the references of record and is in condition for allowance. Claims 2-17 depend from claim 1 and are distinguishable for at least the same reasons as claim 1, and further in view of the various features recited therein.

***Independent Claim 18 and Dependent Claims 19-23***

Claim 18 recites features similar to those of claim 1 discussed above. Hence, for reasons similar to those given above for claim 1, Applicant submits that independent claim 18 distinguishes over the references of record and is in condition for allowance. Claims 19-23 depend from claim 18 and are distinguishable for at least the same reasons as claim 18, and further in view of the various features recited therein.

***Independent Claim 39 and Dependent Claims 40-46***

Amended independent claim 39 recites, among other features, the following:

transmitting the data services information, out-of-band signals, and application data to Customer Premises Equipment (CPE) on two-way output channels and a plurality of different types of one-way output data tunnels, each different type of out-of-band signal sent on a different type of data tunnel.

For reasons similar to those given above for claim 1, neither Chapman nor any of the secondary references teach this feature of claim 39. For at least these reasons, Applicant submits that independent claim 39 distinguishes over the references of record and is in condition for allowance. Claims 40-46 depend from claim 39 and are distinguishable for at least the same reasons as claim 39, and further in view of the various features recited therein.

***Independent Claims 47, 53, 59, and 60 and their dependent claims***

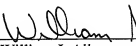
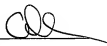
Independent claims 47, 53, 59, and 60 have features similar to those of claim 1 discussed above. Therefore, the Applicant submits that claims 47, 53, 59, and 60 are in condition for allowance for at least similar reasons given in support of claim 1. Dependent claims 48-52 and 54-58 depend on one of these independent claims and are in condition for allowance at least due to their dependence on an allowable claim as well as the features they recite.

**Conclusion**

All objections and rejections have been addressed. Hence, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited.

Respectfully submitted,

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